



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS
WASHINGTON, D.C. 20314-1000

CECW-I

APR 6 2012

MEMORANDUM FOR RECORD

**SUBJECT: Corps Section 902 Cost Limit Policy Clarification and Applicability
Procedures - Notable Deficiency**

1. Purpose: To report the results of an informal investigation into deficiencies related to funding requests being in compliance with Water Resources Development Act of 1986 Section 902 Maximum Cost Limits for all authorized projects seeking Preconstruction Engineering and Design (PED) and/or Construction (C) funds within the Civil Works (CW) program of the U.S. Army Corps of Engineers (USACE) as a Notable Deficiency under the USACE CW program management control checklist.
2. References:
 - a. Planning Guidance Notebook, ER 1105-2-100 Appendix G;
 - b. Civil Works Cost Engineering, ER 1110-2-1302;
 - c. Real Estate Handbook, ER 405-2-12;
 - d. Civil Works Construction Cost Index System, EM 1110-2-1304;
 - e. The U.S. Army Corps of Engineers Civil Works Cost Definitions and Applicability Memorandum, 25 August 2012;
 - f. Methodology for Updating Benefit-to-Cost Ratios (BCR) for Budget Development (CWPM 12-001) 8 March 2012;
 - g. Certified Section 902 Limit Tool;
 - h. EC 11-2-202, 31 March 2012;
 - i. U.S. Army Corps of Engineers Section 902 Cost Limit Policy Clarification and Applicability Memorandum, 7 March 2012, and
 - j. Management - U.S. Army Corps of Engineers Business Process, ER 5-1-11, 01 November 2006.

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3. Background:

a. During the FY 2013 Civil Works budget development process, it was discovered that the FY 2013 budget submittals for the Construction (C) account for several line items had insufficient authority under Section 902 to execute the funding requested.

b. As the annual Civil Works budget submittals and proposed funding must adhere to the legal requirements of Section 902, it is the responsibility of the entire Corps vertical team to ensure compliance with Section 902 Cost Limit requirements.

c. Extensive coordination involving the Army, the Office of Management and Budget, and the Congress was necessary to resolve these project-level issues with the FY 2013 Budget. This identified the need to review the implementing regulations on Section 902 Cost Limits and to verify the quality assurance associated with Section 902 Cost Limits of all authorized projects seeking Preconstruction Engineering and Design (PED) and/or Construction (C) funds in future budgets.

d. As a result, on 7 March 2012, the Deputy Commanding General for Civil and Emergency Operations issued guidance and implementing instructions to MSC Commanders in the form of a memorandum to assess the current extent of these Section 902 Cost Limit issues (reference 2.i.).

e. More specifically, for all authorized projects seeking Preconstruction Engineering and Design (PED) and/or Construction (C) funds, the following will be determined:

- 1) Applicability of the Section 902 Cost Limit;
- 2) The appropriate Section 902 Cost Limit, calculated using the most current cost estimate in accordance with references 2.b. and 2.g.;
- 3) Comparison of the Total Allocations To Date to the current Total Project Cost Estimate (which includes inflation through the mid-point of construction), and
- 4) Proper quality assurance of the Section 902 Cost Limit determination and Total Allocations To Date.

f. If, upon completion of the actions in paragraph 3.e. above, it is determined that the Total Project Cost Estimate has exceeded or will exceed the 902 Cost Limit, HQUSACE (CECW-I, CECW-P, CECW-ID, and CECW-IP) must be notified through the appropriate chain of command and provided the pertinent details.

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g. In addition, when the Total Allocations To Date of the project are within 20 per cent of the Total Project Cost Estimate for the project, a risk-based decision must be made to:

- 1) Seek new authority through the standard execution process of a Post Authorization Change Report (PACR), which should be properly scoped in accordance with reference 2.a., and necessary funding should be estimated and budgeted for in accordance with all appropriate guidance, or
- 2) Continue without seeking new authority, determine whether the cost increase warrants a Benefit-to-Cost Ratio update per reference 2.f., and verify, where appropriate, as part of the MSC annual budget submittal, and
- 3) For unbudgeted projects, the MSC must notify HQUSACE and request guidance for proceeding through the appropriate chain of command.

h. It is the responsibility of the entire Corps vertical team to ensure compliance with Section 902 Cost Limit requirements. Command responsibilities are as follows:

- 1) The Project Manager for each project, working closely with engineering cost estimators, planning economists, environmental personnel and other Civil Works disciplines, will ensure implementation of the actions in paragraph 3 each time costs change and/or for the annual budget submittal;
- 2) The District Commander is ultimately responsible for ensuring that actions described in paragraph 3.e. and 3.g. of this memorandum are implemented and results accurately reported to the MSC Commander;
- 3) It is the responsibility of MSC staff to ensure proper quality assurance is conducted on the actions described in paragraph 3.e. of this memorandum and to assist the district in making a final recommendation to the MSC Commander pertaining to section 3.g. of this memorandum. The ultimate responsibility for ensuring the accurate reporting of line items that conform to Section 902 Cost Limits resides with the MSC Commander;
- 4) It is the responsibility of the Headquarters Programs Integration Division and Planning and Policy Division to communicate and advise on Section 902 Cost Limit policy as requested, and

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- 5) MSC Civil Works Integration Division Chiefs will note two new certification requirements in their annual management control checklist within the budget engineering circular regarding Section 902a cost limit issues, which are now associated with the annual MSC budget submission.

- i. No later than 30 April 2012, each district will implement actions described in paragraph 3.e. and 3.g. of this memorandum for every authorized PED/C line item in the FY 2012 Work Plan and the FY 2013 Budget, and report the findings to their MSC for quality assurance review. No later than 31 May 2012, each MSC will report this information to HQUSACE (CECW-I, CECW-P, CECW-ID, and CECW-IP). Determinations per paragraph 3.e. and 3.g. of this memorandum will also be conducted for each future year budget development beginning with the FY 2014 budget development.

- j. This is considered a Notable Deficiency and not a Material Weakness for the purpose of management control of the Civil Works Program. There has been no actual or potential loss of resources, no violation of statutory or regulatory requirements and the Office of Management and Budget and the House Energy and Water Committee members have been notified of the issue and the planned way-ahead.

4. Way Ahead:

- a. The Directorate of Civil Works is tracking the projects with potential Sec 902 Cost Limit issues that might impact the FY 2013 or FY 2014 Budget Development process. These projects will only be considered for inclusion in that budget on an exception basis if MSCs have not completed their quality assurance reviews before the FY 2014 Budget submission deadline of 29 June 2012. In addition, any additional projects proposed for the FY 2014 budget that were not included in the FY 2013 budget, will also be required to have completed Section 902 Cost Limit quality assurance reviews.

- b. The Directorate of Civil Works will engage the entire Corps vertical team to assure implementation and verify effectiveness of standardized program management business processes to ensure conformance to Section 902 Cost Limits. The intent is for a project with a Section 902 Cost Limit issue to have an approved PACR and to have language amending the authorized project cost in the budget request the year prior to the year the project reaches the Section 902 Cost Limit.

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c. The Directorate of Civil Works will request an Engineer Inspector General (EIG) review of how Districts and Divisions are interpreting 902 Cost Limit guidance and requirements, as well as how Divisions and HQs are reviewing 902 Cost Limit requirements during the annual budget development process. This review will inform the way-ahead for the FY 2014 budget development process and guide implementation of specific corrective actions.

5. Points of contact for this action at HQUSACE in Planning - Mr. Jeremy LaDart, 202-761-5450, and in Programs Integration Division - Mr. Joseph Svrbely, 202-761-4236.



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ENCL. Sec 902 Potential Cost Limit Issues - FY12-FY15 by Project as of 15 Dec 2011

Section 902 - Potential Cost Limit Issues - FY 2012, FY 2013, FY 2014, and FY2015 - by State
(as of 15 Dec 2011)

#	PROJECT	ST	DATE
1	Akutan, AK	AK	?
2	Dillingham, AK	AK	2013
3	Valdez Harbor, AK	AK	Now
4	Tuscaloosa Area Office *	AL	2014
5	Tres Rios, AZ	AZ	Now
6	American River Watershed, Common Features, CA	CA	2014
7	American River Watershed, Common Features, Natomas Basin and Sutter Counties, CA	CA	Now
8	Yuba River Basin, CA	CA	2014
9	Washington DC and Vicinity	DC	Now
10	CERP Site One Impoundment, Phase II, FL	FL	2015
11	Kissimmee River Restoration, Upper Basin, FL	FL	2015
12	Miami Harbor Deepening, FL	FL	2014
13	Ponce de Leon Inlet, FL	FL	2013
14	Savannah Harbor Expansion, GA	GA	2014
15	Des Moines and Raccoon Rivers	IA	2014
16	Chicago Shoreline, IL	IL	2013
17	Little Calumet, IN	IN	Now
18	Olmsted L/D, KY	KY	2013
19	LCA - White's Ditch	LA	2014
20	Morganza to the Gulf, LA	LA	2013
21	Poplar Island, MD	MD	2022, but cannot sign PPA w/o waiver
22	Roseau River, MN	MN	2014
23	Blue River Basin, MO	MO	2014
24	Western Sarpy, NE	NE	2014
25	Middle Rio Grande, Bernalillo to Belen, NM	NM	2014
26	Truckee Meadows, NV	NV	2014
27	Port Monmouth, NY	NY	Now
28	Rio Grande de Arecibo, PR	PR	2013/2014
29	San Juan Harbor, PR	PR	2014
30	Corpus Christi Ship Channel, TX	TX	Now
31	Houston-Galveston Navigation Channels, TX	TX	Within next two years
32	Howard Hanson Dam, WA	WA	likely past 2014

*Tuscaloosa Area Office will exceed authorization limit (a specific dollar amount) if the project is to be completed.